

**IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

IN RE: EVELYN K HARRIS,	)	CHAPTER 13
	)	
Debtor,	)	CASE NO. 21-00825-hb

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EVELYN K. HARRIS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
TITLEMAX OF SOUTH CAROLINA,	)	AP CASE NO. 21-80036-hb
INC.,	)	
	)	
Defendant.	)	

**PROPOSED JOINT PRETRIAL ORDER**

NOW COME THE PARTIES, by and through their undersigned counsel, and submit this proposed joint pretrial order to the Court:

1. Facts admitted and require no proof:
  - a. Debtor filed bankruptcy petition on March 24, 2021.
  - b. Defendant repossessed the Vehicle on March 21, 2021.
  - c. Debtor entered into a loan agreement with Defendant on March 17, 2020 in which she pledged her 2008 Nissan Titan (the "Vehicle") as collateral.
  - d. Debtor defaulted under the terms of the loan agreement with Defendant.
  - e. Defendant returned the Vehicle on September 14, 2021.
2. The facts which remain to be litigated (evidence at trial will be limited to these issues).
  - a. Whether Defendant violated automatic stay.

- b. Amount of damages, if any, allegedly sustained by Debtor should it be found Defendant violated the stay.

3. List of Exhibits:

Plaintiff's Exhibits:

- a. Invoice from Benson Nissan.
- b. Invoice from South Carolina Department of Motor Vehicles.
- c. Invoice from Apple Auto Rentals and Sales.
- d. Plaintiff's contemporaneous list of items missing from vehicle.
- e. Plaintiff's contemporaneous statement regarding employment.
- f. Plaintiff's attorney's statement of attorney fees and court costs.
- g. Civil Docket for U.S. District Court Case No. 7:21-cv-02349-TMC
- h. Titlemax Notice of Plan to Sell
- i. Titlemax Recovered Collateral Inventory Form
- j. Email threads between Wilkinson Law Firm and Titlemax

Defendant's Exhibits:

- k. Loan Agreement entered into between Debtor and Defendant.
- l. Electronic title of the Vehicle.
- m. Pay History of loan.
- n. Black Book vehicle valuation report.

4. Legal Authority

Plaintiff's Legal Authority:

- a. 11 U.S.C. Section 362
- b. 11 U.S.C. Section 1325

- c. 11 U.S.C. Section 361
- d. *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 204 (1983)
- e. *Douglas v. Alford's Used Cars (In re Douglas)* Adv. Pro. No. 12-80233  
(Bankr. S.C. March 8, 2013) (Waites, J.).
- f. *Weatherford v. Timmark (In re Weatherford)*, 413 B.R. 273, 284 (Bankr. D.S.C. 2009).
- g. *In re Parast*, 612 B.R. 710 (Bankr. D.S.C. 2020)
- h. *Budget Serv. Co. v. Better Homes of Virginia, Inc.*, 804 F.2d 289 (4th Cir. 1986).
- i. *Houck v. Substitute Trustee Services, Inc.*, 791 F.3d 473 (4th Cir. 2015).
- j. *Warren v. Dill (In re Warren)*, 532 B.R. 665, 663 (Bankr. D.S.C. 2015)
- k. *In re Romero*, C/A No. 10-00837-HB, 2010 WL 4863781 (Bankr. D.S.C. Nov. 23, 2010) (Burris, J.).
- l. *Taylor v. Credit Cars of Lexington*, C/A No. 10-01560-DD, Adv. Pro No. 10-80058, 2010 WL 5437244 (Bankr.D.S.C. Aug. 5, 2010) (Duncan, J.).
- m. *Duby v. United States (In re Duby)*, 451 B.R. 664 (1st Cir. BAP 2011).
- n. *Chambers v. Auto Brokers (In re Chambers)*, Adv. Pro. No. 18-80089 (Bankr. D. S.C. (September 10, 2019) (Burris, J.)

Defendant's Legal Authority:

- o. 11 U.S.C. Section 362
- p. 11 U.S.C. Section 541
- q. *City of Chicago v. Fulton*, Case No. 19-357 (U.S. 2021)

r. *Brittner v. Beach Anesthesia, LLC*, Ap. Case No. 20-80053 (Bankr. D. S.C.

June 10, 2021).

s. *Hamrick v. Cole* 627 B.R. 519 (Bankr. D.S.C. 2021).

5. Issues to be determined

- a. Whether or not Defendant violated the automatic stay.
- b. Any damages sustained by Debtor should Defendant be found to have violated the automatic stay.
- c. Any punitive damages should Defendant be found to have violated the automatic stay.

6. Witnesses

Plaintiff will be present to testify on her on behalf.

Defendant will have Danielle Gibson and Alice Koffah present.

7. Deposition witness

- None

8. Pretrial Settlement Conference

Defendant believes that a pretrial settlement conference would be beneficial to the parties.

9. Parties ready for trial.

This 21<sup>st</sup> day of January, 2022.

/s/ Nathan E. Huff  
Nathan E. Huff  
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/s/ Dăna Wilkinson  
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